

Exhibit 2

James O'Keefe

Vera v. O'Keefe

UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

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JUAN CARLOS VERA, an individual, :
Plaintiff, : Case No.
v. : 10-cv-01422-L-JMA
JAMES O'KEEFE, III, an individual, :
HANNA GILES, an individual, and :
DOES 1-20 inclusive, :
Defendants. :
-----x

Videotaped Deposition of JAMES O'KEEFE, III
Washington, DC
Thursday, March 15, 2012
9:43 a.m.

Pages: 1 - 267

Reported by: Alda Mandell, RPR, CRR

Page 1

James O'Keefe

Vera v. O'Keefe

1 BY MR. IREDALE:

2 Q And in Maryland. Is that true?

3 MR. MADIGAN: Same objection. Same
4 instruction.

5 BY MR. IREDALE:

6 Q And in California, right?

7 A Yes. We made investigative videos in
8 California.

9 Q Well, the investigative videos involved your
10 tape recording people, right?

11 A Yes.

12 Q And videotaping people, right?

13 A Yes.

14 Q Without telling them you were tape recording
15 them, right?

16 A Yes.

17 Q Without telling them you were videotaping
18 them, right?

19 A Yes.

20 Q Without obtaining their permission, right?

21 A Yes.

22 Q Right? And you knew all the time in
23 California at least that that was against the law of
24 the State of California, correct?

25 A I don't believe I violated any laws at the

James O'Keefe

Vera v. O'Keefe

1 A I defer to my attorney on that.

2 MR. IREDALE: But this is under 404(b), for
3 the purpose of showing motive, intent and knowledge.

4 MR. MADIGAN: Same instruction.

5 A I defer to my counsel.

6 BY MR. IREDALE:

7 Q All right. You came to learn that
8 California had a law that made it illegal to tape
9 record people in certain circumstances, correct?

10 A I became familiar with that, yes, but I
11 didn't believe I broke any laws.

12 Q Well, with all due respect, I'm not asking
13 you now what you believe. I'm asking whether you
14 became aware of the law. You knew that there was a
15 law in California from your experience with Lila Rose
16 that dealt with tape recording people secretly without
17 their consent, right? Right?

18 A That's correct.

19 Q And you understood that Lila Rose at least
20 was accused of violating that law, correct?

21 A That's correct.

22 Q And that law that she was accused of
23 violating says, to your understanding, that it
24 violates the law in the State of California for one
25 person to tape record another person without their

James O'Keefe

Vera v. O'Keefe

1 BY MR. IREDALE:

2 Q So without looking up the law and without
3 seeking an attorney's counsel, you just decided that
4 you hadn't violated the law. Is that right?

5 A That's correct.

6 MR. IREDALE: All right. Well, we've been
7 at it for a while. Do you mind if we take a five
8 minute break?

9 MR. MADIGAN: That's up to you.

10 THE VIDEO OPERATOR: We are off the record
11 at 10:26.

12 (A recess was taken.)

13 THE VIDEO OPERATOR: We are back on the
14 record at 10:39.

15 BY MR. IREDALE:

16 Q Mr. O'Keefe, what if any research did you do
17 to determine whether or not it was legal for you to
18 tape record people without their knowledge in private
19 offices in the State of California?

20 A I don't remember if I had done any research
21 at all.

22 Q Now, you felt that you were entitled to do
23 whatever you needed to do to destroy ACORN, correct?

24 A That's -- that's incorrect. I mean I
25 consider myself a journalist who exposes things and

James O'Keefe

Vera v. O'Keefe

1 A No, I did not.

2 Q And you asked him if he would keep
3 confidential what you said, didn't you?

4 A Yes.

5 Q You brought up confidentiality. You said
6 this conversation's confidential, or words to that
7 effect, didn't you?

8 A Yes. I asked him if he would keep it
9 confidential.

10 Q And he said yes?

11 A Yes.

12 Q And you asked him again at the end of the
13 conversation if he would not repeat the conversation,
14 keep it confidential, right?

15 A I don't remember what I said in the tape.
16 I'd have to look at the transcript to see exactly
17 verbatim what was said. It's on tape.

18 Q But you tape recorded him secretly anyway,
19 correct?

20 A I tape recorded him and --

21 Q Secretly.

22 A I don't believe there was an expectation of
23 privacy in what I did.

24 Q You don't think that he expected that you
25 were not tape recording him? You think he believed

James O'Keefe

Vera v. O'Keefe

1 of the filming.

2 Q How about in terms of the distribution of
3 the films, including the film of Mr. Vera? Who was
4 participating in those discussions?

5 A The distribution of the videos on the
6 internet?

7 Q On the internet and on TV.

8 MR. MADIGAN: I'm going to object and
9 instruct him not to answer the question with respect
10 to any videos except for San Diego. You are
11 skillfully combining all of the -- many others in your
12 question.

13 BY MR. IREDALE:

14 Q I'm just trying to get at, sir, at the time
15 you had these discussions, you had anticipations of
16 making videos and distributing them, right?

17 A That's correct.

18 Q And one of those videos that was ultimately
19 distributed was that from San Diego, correct?

20 A Yes.

21 Q All right. Now I'm asking you who discussed
22 distribution of these videos.

23 MR. MADIGAN: I'm going to object to -- and
24 instruct you not to answer the question as to anything
25 other than the San Diego video.

James O'Keefe

Vera v. O'Keefe

1 happening.

2 **Q But the first one he suggested to you -- you**
3 **say the first one you believe concerning marketing the**
4 **videos occurred in --**

5 A The first discussion we had was on that
6 July 31st or around that date, that very very initial
7 phone call.

8 **Q Concerning marketing?**

9 A Concerning working with him on publishing
10 the videos.

11 **Q Tell me about that.**

12 A That first phone call concerning all the
13 videos, I defer to my attorney and not talking about.

14 MR. MADIGAN: This is one we've already
15 covered. We have July and we have August. I have
16 instructed him not to answer about July, which I think
17 is what you're back to asking him about.

18 BY MR. IREDALE:

19 **Q Well, I'm asking about whether Breitbart**
20 **knew in July that you intended not only to continue to**
21 **do this in California, but whether he also mentioned**
22 **marketing what was going to be done.**

23 A I don't remember having a conversation with
24 him in July about anything regarding California,
25 except that I was going to visit him in California to

James O'Keefe

Vera v. O'Keefe

1 can't tell me what's in his heart? What did he say?

2 A He said that the media would call the
3 actions of the first employees isolated incidents and
4 the media was going to try to cover up for what we've
5 exposed. That's what he said.

6 Q And then he said we're going to have to do
7 some more here in California, or words to that effect.

8 A He did not say that.

9 Q What did he say?

10 A I don't believe we really discussed the next
11 things that I was going to do. Like I said before, I
12 said I was going to do more investigative videos, but
13 I don't think there was a specific discussion about
14 that nature of that.

15 Q Well, he gave you to understand that he
16 wanted to market these videos to various media
17 outputs, right?

18 A Yes.

19 Q And that -- he gave you an understanding on
20 the 5th of August.

21 A Well, I met him on the 6th of August. He
22 gave me that understanding when I first spoke with him
23 in July, that he was interested in helping me market
24 my videos.

25 Q Was money discussed in the first of July?

James O'Keefe

Vera v. O'Keefe

1 A No.

2 Q Was money discussed on the 6th of August?

3 A I don't believe so.

4 Q Not specific amounts, but the idea that you
5 would be paid some money, right?

6 A I don't remember if it was discussed. If it
7 was discussed, it was very brief. But that -- those
8 discussions really didn't happen until a number of
9 days later.

10 Q Until the mid August conversations?

11 A I would say so.

12 Q And the mid August conversations, what was
13 discussed concerning the money?

14 A How he can compensate me for publishing
15 those videos.

16 Q And was a number expressed at that time?

17 A No. Not yet.

18 Q Just the idea that you would be compensated
19 if you could work it out.

20 A If he could obtain the funding. Correct.

21 Q And he encouraged you to do your work in
22 California.

23 A I don't remember what his comments were on
24 that, but they weren't -- there weren't very many.

25 Q You gave him to understand that you had the

James O'Keefe

Vera v. O'Keefe

1 was another video of ACORN employees counseling pimps
2 and prostitutes how to evade the law. And that it was
3 outrageous and it was -- and I couldn't believe that
4 this employee had said these things to me.

5 Q Now, let me talk to you about when you were
6 actually given the money for your life rights. When
7 was the time you received the first check?

8 MR. MADIGAN: Objection. Instruct you not
9 to answer.

10 BY MR. IREDALE:

11 Q Was it before or after you sent in your
12 tape?

13 A After.

14 Q When was it?

15 MR. MADIGAN: Same instruction.

16 BY MR. IREDALE:

17 Q What was the amount of the first check?

18 MR. MADIGAN: Objection. Asked and
19 answered.

20 A I will heed his advice here.

21 BY MR. IREDALE:

22 Q Have you been paid the total \$60,000?

23 MR. MADIGAN: Same objection.

24 MR. IREDALE: You don't want to tell me how
25 much money you were paid --

James O'Keefe

Vera v. O'Keefe

1 MR. MADIGAN: No. It's asked and answered.
2 He's already said that. Go ahead and answer again.

3 A Okay. I was paid around a total of \$65,000.
4 I have been paid in total.

5

6 BY MR. IREDALE:

7 Q 65,000. What was the extra \$5,000?

8 A It was an extra 5,000 paid on December 1st.

9 Q Has Breitbart paid you any other money other
10 than the 65,000 you've mentioned here?

11 A He reimbursed me for a trip to see him in
12 late September 2009.

13 Q And that trip was in connection with what?

14 A Just to come visit with him. Just to visit
15 and talk about journalism.

16 Q And was it including discussions concerning
17 the release of the videos that you had made?

18 A Yeah.

19 Q Now, you edited those videos I understand.

20 A I produce -- all journalists edit their
21 material. I produce videos. Correct.

22 Q I didn't mean to in any way make you testy
23 by improper suggestion.

24 You took a long video --

25 A Uh-huh.

James O'Keefe

Vera v. O'Keefe

1 Q Did you use the same equipment in San Diego
2 that you used in the other places?

3 A Yes.

4 Q No change at all. Same thing?

5 A I believe it was the same.

6 Q All right. What equipment did you use?

7 A In San Diego?

8 Q And everywhere else.

9 MR. MADIGAN: I'll instruct him not to
10 answer it as framed.

11 A And I will...

12 BY MR. IREDALE:

13 Q You refuse to answer as your attorney has
14 told you to?

15 A About the other locations, yes.

16 Q But you just told me the equipment was the
17 very same in all the locations. Is there some secret
18 that we're trying to conceal?

19 A No.

20 Q Okay. What equipment did you use?

21 A In San Diego I used a hidden camera and a
22 recording -- an audio recording device.

23 Q Describe the hidden camera.

24 A It is a little camera embedded in a tie.

25 Q And could you describe the dimensions of the

James O'Keefe

Vera v. O'Keefe

1 camera?

2 A It's the size of a pin head, and it's
3 located -- imbedded in many different things. It
4 happened to be imbedded in a tie.

5 Q And is there a wire coming off of it if you
6 know?

7 A Yes.

8 Q And where does the wire go to?

9 A It goes into a recording box that records
10 the video onto an SD chip card.

11 Q What is the size of the recording box?

12 A It's probably 3-inches by 2-inches or so.

13 Q And can you give me the manufacturer of the
14 tie camera?

15 A The manufacturer?

16 Q Yes.

17 A I don't know what company manufactures them.
18 They're distributed through a variety of websites.
19 You can purchase these cameras. It doesn't have a
20 name to it.

21 Q How about the recording device? Did it have
22 a name to it?

23 A Not on the box. I believe -- I believe
24 these cameras were manufactured overseas, but I'm not
25 sure the company that makes them.

James O'Keefe

Vera v. O'Keefe

1 Q And then so you take the SD chip and insert
2 it in a computer and you have the data that you
3 recorded.

4 A That's correct.

5 Q Now, the tie, which is where the video
6 records not only image but also audio?

7 A Correct.

8 Q It records the words of the people as well
9 as the images of the people whom you are secretly
10 recording.

11 A Yes.

12 Q Now, in addition to that, you said you had a
13 separate audio recorder.

14 A Yes.

15 Q And would you describe to me what that was?

16 A It was very similar to the recorder that's
17 sitting on the table right there.

18 Q Dimensions, an inch by 3-1/2 inches?

19 A Yeah.

20 Q Commercially available?

21 A Yes.

22 Q Do you remember what brand you used?

23 A I don't.

24 Q And you kept that where?

25 A In -- in the pocket. In my pocket.

James O'Keefe

Vera v. O'Keefe

1 material on the coat that my grandmother had and
2 decided to give to me.

3 Q Your grandmother gave you the chinchilla
4 coat?

5 A Yes.

6 Q Did you tell your grandmother you needed it
7 so you could look like a pimp?

8 A I did not.

9 Q What was the reason that you told your
10 grandmother you needed the chinchilla coat?

11 MR. MADIGAN: Objection. Relevance of that.
12 I'll let him answer anyway.

13 A The reason -- I didn't give her a reason. I
14 said do you have a fur coat that I could utilize. And
15 then she -- she just decided to give me one.

16 BY MR. IREDALE:

17 Q And could you tell me the size of the
18 chinchilla fur coat?

19 A I don't remember. It was a little small.

20 Q It did appear to be a little small on you?

21 A It was more of an over -- an -- it wasn't
22 really a full fur coat. It was more of just something
23 you put on maybe to keep warm or something, a shawl or
24 something of that nature.

25 Q It was like a chinchilla jacket?

James O'Keefe

Vera v. O'Keefe

1 Q Let me go now to the hat.

2 A Uh-huh.

3 Q Where did you get the hat?

4 A My grandfather.

5 Q Your grandmother gave you a chinchilla coat
6 that you wore in your role as a pimp and you got the
7 hat from your own grandfather?

8 A Yes.

9 Q And what kind of hat was it?

10 A It's a derby hat I think. He had purchased
11 it I believe at a secondhand store 10 years earlier in
12 Las Vegas, and he had given it to me. It sat in my
13 closet for a number of years. And I retrieved it.

14 Q Now, having accoutered yourself with a hat
15 from your grandfather and the chinchilla coat from
16 your grandmother, did you get any other accessories so
17 that you could portray yourself in the role of a
18 panderer?

19 A Hannah Giles had purchased sunglasses with
20 large -- almost looked like ski goggles, sunglasses.
21 Fake designer glasses. And a cane I had previously
22 purchased from a Dollar Store. Utilized the cane for
23 the trailer. I believe that was it.

24 Q And the cane you paid a dollar for?

25 A Yes.

James O'Keefe

Vera v. O'Keefe

1 the plane was about to take off.

2 Q Let me ask you this. Did you think at some
3 point of setting up a sting operation so that he could
4 be for instance directed to go down to the border with
5 a truck, and that way you could prove that he really
6 intended to do something illegally? Did you ever
7 conceive of that in your plan?

8 A It's possible, but I would never break any
9 laws if I were to do that.

10 Q I would never want you to break any laws.
11 By the way, you are on probation now for
12 breaking the law, are you not?

13 A A Class B misdemeanor.

14 Q Oh. A misdemeanor? And therefore, not a
15 serious crime.

16 A Just answering your question.

17 Q Yes. I appreciate your answering my
18 question. You just told me I would never break any
19 laws, but you pled guilty to the commission of a crime
20 in a court in Louisiana. District Court I believe.
21 Is that true? Is that true?

22 A I pled guilty to a misdemeanor. Yes.

23 Q Yes. And one of your co-defendants I
24 believe was the son of the acting U.S. Attorney in
25 that district in Louisiana, wasn't he?

James O'Keefe

Vera v. O'Keefe

1 office.

2 Q Oh, I'm sorry. I misunderstood, because on
3 the tapes that were broadcast on TV, they were always
4 introduced by that raggedy coat and the cane. But
5 when in fact you actually saw Mr. Juan Carlos Vera,
6 you weren't wearing your pimp outfit?

7 A I was wearing a -- I was not wearing the
8 pimp outfit. No.

9 Q Were you wearing a coat and tie?

10 A I was wearing a shirt and pants.

11 Q A shirt and pants? And what kind of shirt?

12 A Collared shirt.

13 Q Pressed?

14 A Probably not pressed.

15 Q Neat?

16 A Maybe a little wrinkled.

17 Q Clean?

18 A Sure.

19 Q Color?

20 A I believe it was a blue shirt.

21 Q And pants. How about pants? What kind of
22 pants were you wearing?

23 A They were either khakis or some type of
24 khaki pants.

25 Q Shoes?

James O'Keefe

Vera v. O'Keefe

1 A Yes.

2 Q What kind?

3 A Brown shoes I think.

4 Q Leather?

5 A Yeah.

6 Q Scuffed or shined?

7 A Maybe a suede material.

8 Q Suede?

9 A Something like that. Like Docksidors or
10 some material.

11 Q So the actual appearance that you gave to
12 the people when you talked to them in these videos was
13 different from the appearance that you put in the
14 lead-in to the broadcast.

15 A That's incorrect. That's incorrect.

16 MR. MADIGAN: I'm going to object to the
17 question unless it is about the San Diego video.

18 MR. IREDALE: All right. That's fair.

19 BY MR. IREDALE:

20 Q You -- in the San Diego video when you
21 actually talked to Mr. Vera --

22 A Uh-huh.

23 Q -- you didn't wear the grandad's hat.

24 A No.

25 Q You didn't wear grandma's fur coat.

James O'Keefe

Vera v. O'Keefe

1 Q Show both sides.

2 A I show the full tape, which is more than any
3 journalist in America shows.

4 Q Well, what gets to the public is the edited
5 tape, but you make available the audio transcript.

6 A That's correct.

7 Q On Breitbart's website there are no full
8 videos. There are only audio transcripts, correct?

9 A That's correct.

10 Q The full videos were never shown, correct?

11 A That's correct.

12 Q Only the audio, right?

13 A That's correct.

14 Q Now, did you ever go back to any of these
15 persons that you tape recorded in secret with this
16 false identity and ask them what they were thinking?

17 MR. MADIGAN: I'm sorry. Are you asking
18 about beyond San Diego?

19 MR. IREDALE: Yeah.

20 MR. MADIGAN: Okay. I instruct you not to
21 answer the question.

22 A I'll take my attorney's counsel and not
23 answer that question.

24 MR. IREDALE: And you know you're not
25 seeking a protective order for any of these things.